

Appl. No. 10/765,959
In re BAXTER
Reply to Final Office Action of Sep. 9, 2005

REMARKS/ARGUMENTS

The Examiner is thanked for the Final Official Action dated September 9, 2005. This amendment and request for reconsideration is intended to be fully responsive thereto.

Claims 1, 4-11, 13-20 and 23 were rejected under 35 U.S.C. 102(b) as being anticipated by Porter (US 6,578,654). The applicant respectfully disagrees.

The Examiner alleges that the coupling shown in Fig. 4 of Porter is a differential as it allows differential rotation (apparently between the input shaft 42 and the output (pinion) shaft 54). The Examiner further erroneously alleges that the Applicant's assumption of the differential requires only a system of gears, which are not explicitly recited in the claims of the present invention. However, as noted in the definition of the term "differential" defined by the "Dictionary of Automotive Engineering" (Second Edition 1995 by Don Goodsell, CEng, MIMechE, MSAE, Society of Automotive Engineers, Inc., Warrendale, PA), the differential should be capable of dividing the input torque of one shaft between two output shafts where rotation at different speeds is likely to occur, as in cornering." (emphasis added). In other words, the term "differential", as it understood in the mechanical art, necessitates for two output shafts driven by an input shaft and a mechanism of some sort capable of rotating the two output shafts at different speeds.

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Contrary to the above definition, the element 44 shown in Fig. 4 of Porter and defined by Porter as “hydraulic coupling” (not differential), has only one output shaft: the pinion shaft 54. In other words, the differential rotation allowed by the hydraulic coupling of Porter is between the input and output shafts, not between the two output shafts, as required by the definition of the term “differential”.

Moreover, the drive axle assembly 34 of Porter also includes the differential 46 (shown in Figs. 2 and 7). As shown in the above mentioned Figs. 2 and 7, the device 46, unlike the coupling 44), clearly falls under the definition of differential as it includes two output shafts 58 and 60 driven by an input shaft 54 and a mechanism 56 capable of rotating the two output shafts 58 and 60 at different speeds. Obviously, the hydraulic coupling 44 and the differential 46 of the drive axle assembly 34 could not be both differentials, as it is technically impossibility.

Therefore, one of ordinary skill in the art would not interpret the hydraulic coupling 44 of the drive axle assembly 34 as the differential. Accordingly, the rejection of claims 1, 4-11, 13-20 and 23 U.S.C. 102(b) as being anticipated by Porter is improper.

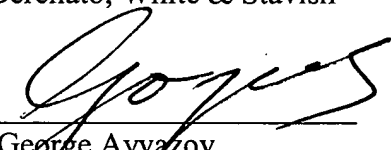
It is respectfully submitted that claims 1, 4-11, 13-20 and 23 define the invention over the prior art of record and are in condition for allowance, and notice to that effect is earnestly

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solicited. Should the Examiner believe further discussion regarding the above claim language would expedite prosecution they are invited to contact the undersigned at the number listed below.

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